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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
|-----------------|-------------|----------------------|---------------------|
|-----------------|-------------|----------------------|---------------------|

08/337,894 04/25/96 TASH

G P-2127-40

F1M1/0820

JOHN J. POSTA JR
SUITE 400
5850 CANOGA AVENUE
WOODLAND HILLS CA 91367

EXAMINER

FETSUGA, R

ART UNIT

PAPER NUMBER

3105

DATE MAILED:

08/20/97

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/637,894

Applicant(s)
Tash

Examiner
Robert M. Fetsuga

Group Art Unit
3105



☒ Responsive to communication(s) filed on Jun 23, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-4 and 6-12 is/are pending in the application.

Of the above, claim(s) none is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-4 and 6-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. The status of the parent application(s) has been updated.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten in view of Gross.

The Cheiten reference discloses a plunger comprising: a handle 20; and a pleated bellows 12,14,15. Therefore, Cheiten teaches all claimed elements except for the provision of rings.

Although the guide portion (28) of the Cheiten plunger does not include rings, as claimed, attention is directed to the Gross reference which discloses an analogous plunger which further includes a guide portion 32 having upper 36, second 37 and bottom 38 rings. Therefore, in consideration of Gross, it would have

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been obvious to one of ordinary skill in the art to associate rings with the Cheiten plunger in order to facilitate drain engagement.

4. Claims 1-4 and 10-12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten and Gross as applied to claim 1 above, and further in view of Tash.

Re claims 1 and 10, Tash teaches a plunger having pleated bellows more like that disclosed by applicant. Re claims 4 and 12, Tash further teaches constructing a plunger handle of plastic.

5. Claims 6-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Cheiten, Gross and Tash as applied to claim 1 above, and further in view of Lacey et al.

Although the guide portion of the Cheiten plunger (gross, at 34) is not vertical, as claimed, attention is directed to the Lacey et al. (Lacey) reference which discloses an analogous plunger which further includes a vertical guide portion 23. Therefore, in consideration of Lacey, it would have been obvious to one of ordinary skill in the art to associate a vertical guide portion with the Cheiten plunger in order to facilitate drain engagement. Re claim 7, the choice of ring size would appear an obvious choice to be made depending on desired drain engagement. Re claim 9, the rings of the Gross plunger are flexible to

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facilitate universal drain engagement. To construct the rings to be less flexible would have been obvious in order to facilitate drain engagement with a particular type of drain.

6. Applicant argues at pages 3-7 of the response that Gross does not teach three seals which are equivalent to the claimed rings. However, Gross does teach three rings which are equivalent to the claimed rings.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number (703) 308-1506.



ROBERT M. FETSUGA
PRIMARY EXAMINER
ART UNIT 3105

rmf
August 18, 1997